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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1970

No. 1203

RICHARD A. McGEE, WALTER DUNBAR, FRED R. DICKSON and ROBERT A. HEINER,

Petitioners,

v.

GEORGE HORN,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Petitioners pray that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Ninth Circuit entered in *George Horn* v. *The People of the State of California, et al.*, on October 27, 1970 (Case No. 23606).

CITATIONS TO OPINIONS BELOW

The judgment of the Court of Appeals, not yet reported, appears in Appendix A hereof. The memorandum opinion of the United States District Court for the Eastern District of California appears in Appendix B.

JURISDICTION

This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1). The petition is timely since the judgment of the Court of Appeals below was entered on October 27, 1970, and this petition is filed within 90 days thereof.

STATUTES INVOLVED

The relevant state and federal statutes are set out in Appendix C.

QUESTION PRESENTED

Whether the Administrator of a State Youth and Adult Corrections Agency, the Director of a State Department of Corrections, the chairman of a state paroling agency and the warden of a state prison may be held civilly liable for damages under the Federal Civil Rights Act, 42 U.S.C. section 1983 for the acts of promulgating and enforcing rules relating to the practice of the Black Muslim religion in prison, which acts were discretionary and performed within the scopes of their authorities?

STATEMENT OF THE CASE

On September 23, 1964, respondent George Horn, a California state prisoner and Black Muslim, filed a complaint under the Civil Rights Act, 28 U.S.C. § 1343 and 42 U.S.C. § 1983 naming as defendants Richard McGee, then Administrator of the California Youth and Adult Corrections Agency; Walter Dunbar, then

Director of the California Department of Corrections; Fred R. Dickson, then Chairman of the California Adult Authority; Robert A. Heinze, then Warden of the California State Prison at Folsom; The People of California, the State of California, and the State Department of Corrections.

Respondent complained that the individual defendants had, while acting in their official capacities, adopted and were enforcing administrative regulations which caused him to be discriminated against in the exercise of his religion. Specifically, respondent alleged that such regulations denied him and other Black Muslim prisoners the privilege to assemble for the purposes of exercising and discussing Black Muslim tenets; the privilege of being afforded prison facilities for such meetings; the privilege to correspond and meet with outside Black Muslim leaders, and the privilege of possessing publications advancing the views of the Black Muslim religion. Respondent also alleged that he had been discriminated against in matters of job assignments and parole because of his identification as a Black Muslim. Respondent prayed for injunctive relief and damages of $200,000 from each defendant.

Thereafter, on July 25, 1966, petitioners filed a motion to dismiss the claim for damages pursuant to Federal Rule of Civil Procedure 12(b)(6) asserting that the individual defendants were immune from suit for damages. Petitioners on May 1, 1968, filed a further motion to dismiss on the ground that plaintiff's

claim for injunctive relief was moot due to subsequent adoption of administrative regulations meeting plaintiff's objections.

On September 23, 1968, the District Court for the Eastern District of California ordered the action dismissed as to the "State of California," the "People of California," and the "State Department of Corrections," ordered plaintiff's claim for declaratory and injunctive relief dismissed as moot, but denied the individual defendants' motion to dismiss the claim for damages (Appendix B). Interlocutory appeal was taken to the Court of Appeals for the Ninth Circuit and on October 27, 1970, that Court affirmed the action of the District Court (Appendix A).

REASON WHY A WRIT OF CERTIORARI SHOULD BE GRANTED

I. A Substantial Constitutional Question Is Raised By The Ruling Of The Court Below That State Correctional And Prison Officials Are Not Immune From Suit For Damages Under The Civil Rights Act For Discretionary Acts Performed Within The Scope of Official Duty

The gravamen of respondent's complaint below was that the individual defendant state officials adopted and enforced regulations which restricted the practice of the Black Muslim religion within the state prisons.

There is no question but that such regulations were adopted and enforced by petitioners. There is equally no question but that California law enjoins petitioners to adopt and enforce general rules and regula-

tions for administering the state prisons (California Penal Code §§ 2079, 5054, 6024, 6025.5) and that at the time with which we are concerned, these particular regulations had been specifically approved by state and federal courts (*In re Ferguson* (1961) 55 Cal.2d 663; *Williford* v. *California* (N.D.Cal., N.D., 1963) 217 F.Supp. 245).

The result of the opinion of the Court of Appeals below is that while the legislators who authorized the issuance of prison regulations and the judges who upheld the regulations in question here are unquestionably immune from suit for damages under the Civil Rights Act (*Tenney* v. *Brandhove* (1951) 341 U.S. 367; *Pierson* v. *Ray* (1967) 386 U.S. 547) the prison officials who promulgated those regulations and the wardens who enforced them are not.

It is petitioners' position that this result is anomalous and unjust. Petitioners submit that they should not be so held since the allegations of the complaint concern solely quasi-legislative and discretionary governmental functions which are authorized by unquestioned statutes and closely related to the operation of a state judicial and penal system. Under the decisions of this and the lower federal courts, individuals performing such functions are and should be immune from an action for damages under the Civil Rights Act.

In *Tenney* v. *Brandhove* (1951) 341 U.S. 367, this Court held state legislators immune from suit for

damages under the Civil Rights Act stating at page 376:

> "We cannot believe that Congress—itself a staunch advocate of legislative freedom—would impinge on a tradition so well grounded in history and reason by covert inclusion in the general language before us."

This Court then noted the policy considerations underlying its holding stating at page 377:

> "Legislators are immune from deterrents to the uninhibited discharge of their legislative duty, not for their private indulgence but for the public good. One must not expect uncommon courage even in legislators. The privilege would be of little value if they could be subjected to the cost and inconvenience and distractions of a trial upon a conclusion of the pleader, or to the hazard of a judgment against them based upon a jury's speculation as to motives."

More recently, this Court reached the same result in holding state court judges immune from suit for damages under the Civil Rights Act (42 U.S.C. § 1983 in *Pierson* v. *Ray* (1967) 386 U.S. 547. The Court specifically noted that there was no "clear indication" that in enacting the Civil Rights Act, Congress intended to abolish wholesale all common law immunities, including, of course, the very well settled common-law doctrine of judicial immunity (*Pierson* v. *Ray, supra*, p. 554).

The common law doctrine of official immunity extends far beyond merely the judiciary and Legislature. It has been successfully asserted by the Postmaster

General (*Spalding* v. *Vilas* (1896) 161 U.S. 483); by a Postmaster (*Kendall* v. *Stokes* (1845) 44 U.S. 87); by the Secretary and Assistant Secretaries of the Treasury (*Standard Nut Margarine Co. of Florida* v. *Mellon* (D.C. Cir., 1934) 72 F. 2d 1934); by draft board members (*Gibson* v. *Reynolds* (8th Cir., 1949) 172 F.2d 95); and by the Director of the Office of Rent Stabilization (*Barr* v. *Matteo* (1959) 360 U.S. 564).

In the latter case, this Court noted and approved Judge Learned Hand's statement in *Gregorie* v. *Biddle* (2nd Cir., 1949) 177 F.2d 579, 581 that:

> "The justification for doing so [denying recovery] is that it is impossible to know whether the claim is well founded until the case has been tried, and that to submit all officials, the innocent as well as the guilty, to the burden of a trial and to the inevitable danger of its outcome, would dampen the ardor of all but the most resolute, or the most irresponsible, in the unflinching discharge of their duties."

Applying this reasoning to the Civil Rights Act, the Ninth Circuit and other jurisdictions have adopted the "approach of granting immunity to government officials for discretionary acts done within the scope of their authority." (*Hoffman* v. *Halden* (9th Cir. 1959) 268 F.2d 280, 300.)[1] Accordingly, federal courts have held almost universally that Governors and high executive officials—such as department and agency heads—are immune from liability for damages under the federal Civil Rights Act (*Delaney* v. *Shobe* (D.C. Ore.,

[1] *Hoffman* is overruled as to a different point in *Cohen* v. *Norris* (9th Cir. 1962) 300 F.2d 24, 29–30.

1964) 235 F.Supp. 662, 667; *Morgan* v. *Sylvester* (D.C.N.Y. 1954) 125 F.Supp. 380, 387, aff'd 220 F.2d 758, cert. den. 350 U.S. 867).[2] Recently, the Ninth Circuit applied these principles to determine that state parole board members enjoyed immunity from a Civil Rights suit as officials.

> ". . . performing either quasi-judicial functions or discretionary governmental functions, authorized by unquestioned statutes and closely related to the operation of a state judicial and penal system." (*Silver* v. *Dickson* (9th Cir. 1968) 403 F.2d 642, 644.)

Petitioners submit that in refusing to afford the defense of official immunity to the individual defendants herein, the Court of Appeals below ignored both the holding and the reasoning of the above-cited cases.

As to petitioners McGee and Dunbar, the gist of the complaint is that they adopted and promulgated certain prison regulations. As noted above, these petitioners acted pursuant to the California Legislature's grant of rule-making authority under California Penal Code section 5058. As it is beyond question that the California legislators who enacted section 5058 could not be held to answer in damages under 42 U.S.C. section 1983 (*Tenney* v. *Brandhove*, *supra*), it follows that the state officials who performed a quasi-legislative function in adopting regulations in accordance with the Legislature's direction share in that immunity. It would be totally anomalous

[2] Other cases are collected in Davis, *Administrative Law Treatise* (1965 Supp. § 26.06).

to grant immunity in the one case and withhold it in the other.

Warden Heinze should have been held immune from suit for similar reasons. In essence, respondent's complaint against petitioner Heinze is that, as Warden of Folsom State Prison, petitioner Heinze enforced and administered the regulations here involved.

Again, it would be an anomalous and unjust result to grant immunity to the state legislators who enacted Penal Code section 5058, authorizing the prescribing of rules and regulation for the management and control of the state prisons, and to the executive officials who then adopted such rules while holding liable the warden; the subordinate who in good faith enforced and administered those rules. In such circumstances immunity on the administrative level for the acts here alleged is a corollary of that established for the originating legislators.

The opinion of the Ninth Circuit Court of Appeals is further deficient and deserving of review in this regard since the opinion runs contrary to a substantial body of cases affording wardens immunity for maintaining custody "... in the manner that the rules and regulations of the penitentiary and the directions of superiors required ...." (*Lumbermens Mutual Casualty Company* v. *Rhodes* (10th Cir. 1968) 403 F.2d 2, 7; see also cases cited in *Delaney* v. *Shobe* (D.C. Ore., 1964) 235 F. Supp. 662, 666).

The Ninth Circuit opinion below is further deserving of review since it ignores the fact that petitioners McGee, Dunbar and Dickson are all alleged to have

engaged in the performance of discretionary governmental functions, authorized by unquestioned statutes and closely related to the operation of a state judicial and penal system—circumstances which should, but did not, add up to immunity from the suit here pressed.

As noted above, petitioners McGee and Dunbar are alleged only to have adopted and promulgated certain prison regulations, a power clearly committed to their discretion by unquestioned state statutes. Similarly, petitioner Dickson is alleged to have taken part in the state parole process, again a discretionary function committed to the agency he directs by unquestioned state statute (California Penal Code § 3040). Since the actions alleged against these petitioners relate entirely to the operation of a state judicial and penal system, immunity should attach (*Silver* v. *Dickson*, *supra*).

The novelty of the Ninth Circuit holding that state penal officials could be held liable for their rule making administrative actions was underscored by *Runnels* v. *Parker* (C.D.Cal. 1967) 263 F.Supp. 271. There, plaintiff brought an action for damages under the Civil Rights Act against a chief of police and individual members of a municipal police commission alleging a violation of civil rights in those defendants' adoption and enforcement of an allegedly unconstitu-

tional police regulation. The Court found little merit in the complaint stating:

> "Counsel have cited no cases, nor has the Court been able to find any, in which the mere adoption of a regulation by either a legislative or administrative agency can constitute the basis of personal liability for monetary damages under the Civil Rights Act." (*Runnels* v. *Parker, supra*, p. 274.)

Petitioners submit that the novel holding of the Court of Appeals should be reviewed by this Court; both because the facts of the case fall squarely within the holdings of the immunity cases cited above and because immunity is called for by the principles underlying those cases.

In this regard, this Court may surely take notice that few public officials run so high a risk of being the object of harassing and meritless civil actions as to correctional officials. The temptation to try or sue one's jailors is great indeed. To deny immunity here would certainly " . . . dampen the ardor of all but the most resolute, or the most irresponsible, in the unflinching discharge of their duties." (*Gregorie* v. *Biddle, supra*, p. 581.)

CONCLUSION

For the foregoing reasons, petitioners respectfully submit that the petition for writ of certiorari should be granted.

Respectfully submitted,

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APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

GEORGE HORN, *Appellee,* v. THE PEOPLE OF THE STATE OF CALIFORNIA, RICHARD A. McGEE, Agency Administrator; WALTER DUNBAR, Director of Corrections; FRED R. DICKSON, Adult and Parole Member; ROBERT A. HEINZE, Warden, Folsom Prison; et al., State Department of Corrections, State of California, *Appellants.*	No. 23,606

[October 27, 1970]

Appeal from the United States District Court for the Eastern District of California

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Before: HAMLEY and KOELSCH, Circuit Judges, and SMITH, District Judge.*

PER CURIAM:

We affirm the district court order in this civil rights case principally for the reasons stated in the opinion of the district court, reported in *Horn* v. *People of California, et al.,* F.Supp. (E.D. Cal. 1968).

We wish to add, however, that if any of the grievances alleged by plaintiff are the direct result of the enforcement of rules and regulations generally applicable to all prison inmates, the personal defendants, if any, who promulgated such rules and regulations may, to that extent, be able to establish an immunity

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* The Honorable Russell E. Smith, United States District Judge for the District of Montana, sitting by designation.

defense, based upon discretionary governmental action. We do not reach that question now because the grievances, as described in the complaint, are not specifically alleged to result from, or to result exclusively from, the enforcement of regulations of that kind.

As the district court observed in its opinion, the defendants may also have a complete defense if they can show that they were acting in good faith. *See Pierson* v. *Ray*, 386 U.S. 547 (1967).

APPENDIX B

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

GEORGE HORN, *Plaintiff,* **v.** **THE PEOPLE OF CALIFORNIA, To: RICHARD A. McGEE, Agency Administrator; WALTER DUNBAR, Director of Corrections; FRED R. DICKSON, Adult & Parole Member; ROBERT A. HEINZE, Warden, Folsom Prison; et al., State Department of Corrections; State of California,** *Defendants.*	Civ. 9100

MEMORANDUM AND ORDER

Plaintiff is an inmate of the California State Prison at Folsom, California. He brought an action seeking declaratory relief, injunctive relief, and damages under the Federal Civil Rights Act (42 U.S.C. § 1983) alleging deprivation of his religious freedom under the United States Constitution.

Plaintiff is a follower of "the ancient and eternal Religion of Islam, as taught to the so-called American Negro by the Honorable Elijah Muhammed, Spiritual Leader and Teacher of the Lost-Found Nation of Islam in North America." He claims that prisoners of his faith are denied the right to study and practice their religion to the same extent as prisoners of other religions.

He specifically requests the right to receive literature of his faith, the right to correspond with ministers of his religion, and the right to use prison facilities for holding religious meetings and classes to the same extent allowed other religions.

After plaintiff filed his suit, the California Director of Corrections changed the prison regulations on Black Muslims' religious rights. Plaintiff is now satisfied with the regulations but still seeks a declaration of his religious rights and an injunction restraining adoption of more stringent regulations concerning his religious activities. He also presses his claim for damages in the amount of $200,000.

Defendants have moved to dismiss the prayer for declaratory and injunctive relief on the ground of mootness and the prayer for damages on the ground of official immunity.

A case does not become moot, thus depriving the court of power to hear and determine it, merely because the defendant has voluntarily ceased the alleged illegal conduct. *United States v. W.T. Grant Co.*, 345 U.S. 629, 632 (1953). The defendants are not entitled to a dismissal as of right unless they can carry the heavy burden of showing that "there is no reasonable expectation that the wrong will be repeated." *United States v. W.T. Grant Co., supra* at 633; *United States v. Aluminum Co. of America*, 148 F.2d 416, 448 (2d Cir. 1945). In light of the broad grant of power to the California Director of Corrections,[1] the defendants have not carried that burden here.

Although the defendants are not entitled to a dismissal as of right, the case may still be dismissed if the plaintiff fails to convince the court that further relief is needed. Some cognizable danger of recurrent violation must exist. *United States v. W.T. Grant Co., supra.* Other factors may also be weighed. "To be considered are the bona fides of the expressed intent to comply, the effectiveness of the discontinuance

[1] California Penal Code § 5058 provides: "The director may prescribe rules and regulations for the administration of the prisons and may change them at his pleasure."

and, in some cases the character of the past violations." *United States v. W.T. Grant Co., supra* at 633.

Here the intent to satisfy plaintiff's grievance appears in a statewide regulation. I have no reason to doubt that the new regulations are being followed and will continue to be followed in the future. See *Roberts* v. *Pegelow*, 313 F.2d 548 (4th Cir. 1963). I therefore find that the gravity of the harm threatened, discounted by its improbability and the opportunity for future redress, does not justify further declaratory or injunctive relief in this case.[2]

This conclusion is consistent with the policy of avoiding "unnecessary interference by the federal courts with proper and validly administered state concerns." *Harrison* v. *NAACP*, 360 U.S. 167, 176 (1959). State prison administration and the adoption of rules and regulations concerning state prisons, even in the context of alleged denial of religious freedom, are matters of special state interest. See *Sostre v. McGinnes*, 334 F.2d 906 (2d Cir. 1964), *cert. denied*, 379 U.S. 892.

The defendants have further moved for a dismissal of the damage action.[3] Their claim is that these defendants are officially immune from suit under the Civil Rights Act for actions such as plaintiff alleges.

The motion to dismiss will be granted as to defendants "State of California", "The People of California" and "State Department of Corrections." Such entities are not persons and are not subject to damage

[2] Since any decree based on constitutional grounds limiting the Director's power to change the regulations would enjoin his power to act under state law, there is grave doubt as to whether any further relief could be granted without summoning a three-judge court under 18 U.S.C. §§ 2281 & 2284.

[3] The Attorney-general based his motion on Rule 39(a) as to the personal defendants. It should have been made under Rule 12(b)(6) and is here so treated.

suits under the Civil Rights Act. *Serrano v. People of the State of California*, 361 F.2d 474 (9th Cir. 1966); *Williford v. People of California*, 352 F.2d 474 (9th Cir. 1965); *Williams v. Craven*, 273 F. Supp. 649 (C.D. Cal. 1967).

The personal defendants are: Richard A. McGee, "Agency Administrator"; Walter Dunbar, Director of Corrections; Fred R. Dickson, "Adult and Parole Member"; and Robert A. Heinze, Warden of Folsom Prison. As to them the motion to dismiss must be denied.

The Court of Appeals for the Ninth Circuit has recently held in the case of *Williford v. People of California*, 352 F.2d 474 (9th Cir. 1965), that a complaint substantially similar to the one in this case was not subject to a motion to dismiss under Rule 12(b)(6). The complaint in *Williford* was described by the court as follows:

> The basis of liability . . . is the alleged systematic harassment of plaintiffs in the exercise of what is termed the "Islamic" religion, embraced by . . . [the plaintiff as a Black Muslim].
>
> Williford's amended complaint . . . sets forth the following factual allegations: defendants formed a conspiracy under color of state law, to oppose and obstruct the lawful execution and administration of plaintiff's right to worship God according to the dictates of his own conscience. As a result of this restraint and conspiracy, plaintiff is confined to a segregated unit of the prison, with the loss of credits and good time and is the victim of insults, racial prejudice and other punishments. No other inmates are given solitary confinement for praying to God, or subject to punishment for the practice of their religious beliefs. (352 F.2d at 475).

The defendants in *Williford* held similar posts to those in this case. They were a warden, two associate wardens, a "program administrator", and two "guard lieutenants." The court there held that as to all personal defendants the complaint stated a claim on which relief could be granted.

The complaint in the present case, while not written by a lawyer, can be said to allege the following: That the defendants, and each of them, acting under color of state law, wilfully and maliciously, with full knowledge that they were exceeding their legal authority, did the following: 1.) Denied plaintiff the right to practice his religion and worship God according to his religion, without fear of reprisals and extreme punishment. 2.) Denied plaintiff the right to communicate with ministers of his faith and purchase Islamic literature and materials to the same extent as prisoners of other faiths. 3.) Caused plaintiff to be discriminated against on account of his religion in matters of reduction in custodial status, job assignments, and determination of sentence. 4.) Caused plaintiff to be singled out for special discrimination and subjected to vexation, torment, mental anguish and suffering by all prison personnel on account of his religion.

The plaintiff here alleges substantially the same facts as in *Williford*. Therefore, on the basis of *Williford*, he must be allowed to proceed.

The Attorney-general (acting on behalf of the defendants) seeks to distinguish *Williford* on the ground that the court there was referring only to plaintiff's right to *some* relief, meaning an injunction, but not damages. However, although Williford was seeking an injunction as well as damages, the opinion never mentioned the injunction, but only described

the action as one for damages. It can therefore hardly be read as not applying to claims for damages.

The plaintiff must still prove his contentions and substantiate his claim of damages before he can recover. The defendants may have a complete defense if they can show that they were acting in good faith. See *Pierson v. Ray*, 386 U.S. 547 (1967). While plaintiff's chances for success may not appear great, a complaint may be dismissed only when it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. *Corsican Productions v. Pitchess*, 338 F.2d 441 (9th Cir. 1964). That extreme is not present here.

Defendants' previous motion for summary judgment is likewise denied. There are issues of fact to be determined and the motion must therefore be denied. See *Williford v. People of California*, 352 F.2d 474 (9th Cir. 1965).

Plaintiff also asserts that paying money to prison chaplains (of other faiths) is an establishment of religion. Such claim is without merit and is dismissed pursuant to Rule 12(b)(6). See *Abington School District v. Schempp*, 374 U.S. 203, 296–99 (1963) (concurring opinion).

IT IS THEREFORE ORDERED that plaintiff's prayer for declaratory and injunctive relief be, and the same is, hereby dismissed;

AND IT IS FURTHER ORDERED that defendants' motion to dismiss plaintiff's complaint as to defendants State of California, The People of California, and State Department of Corrections, be and the same is, hereby granted; as to all other defendants, that the motion to dismiss be, and the same is, hereby denied;

AND IT IS FURTHER ORDERED that plaintiff's claim as to the unconstitutionality of prison chaplains be, and the same is, hereby dismissed.

DATED: September 23, 1968.

/s/ THOMAS J. MACBRIDE
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

GEORGE HORN, v. *Plaintiff*, THE PEOPLE OF CALIFORNIA, To: RICHARD A. McGEE, Agency Administrator; WALTER DUNBAR, Director of Corrections; FRED R. DICKSON, Adult & Parole Member; ROBERT A. HEINZE, Warden, Folsom Prison; et al., State Department of Corrections; State of California, *Defendants.*	Civ. 9100

AMENDMENT OF ORDER

IT IS ORDERED that this court's opinion in the case of Horn v. State of California, filed September 23, 1968, be amended by adding at the end the following words: With respect to the determination that Horn's complaint for damages states a claim upon which relief may be granted, I am of the opinion that this order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order under the provisions of 28 U.S.C.A. § 1292(b) may materially advance the ultimate termination of the litigation. Pending determination of that appeal, proceedings in this case are stayed.

DATED: October 22, 1968.

/s/ THOMAS J. MACBRIDE
United States District Judge

APPENDIX C

CALIFORNIA PENAL CODE

§ 2079

Subject to the orders and the policies established by the department, it shall be the duty of the wardens to supervise the government, discipline and policy of the prisons, and to enforce all orders and regulations.

§ 3040

The Adult Authority shall have the power to allow prisoners imprisoned in the state prisons to go upon parole outside the prison walls and inclosures. The authority may parole prisoners in the state prisons to camps for paroled prisoners established under Article 5, Chapter 5, Title 1, Part 3 of this code.

§ 5054

The supervision, management and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline and employment of persons confined therein are vested in the director.

§ 5058

The director may prescribe rules and regulations for the administration of the prisons and may change them at his pleasure.

§ 6024

There is in the state government a Board of Corrections.

§ 6025.5

The Director of Corrections, Adult Authority, Board of Trustees of the California Institution for Women, the Youth Authority Board, and the Director

of the Youth Authority shall file with the Board of Corrections for information of the board or for review and advice to the respective agency as the board may determine, all rules, regulations and manuals relating to or in implementation of policies, procedures, or enabling laws.

o